

ATTACHMENT A
THE PROPOSED DECISION

BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA

In the Matter of the Appeal of the Denial of
Increasing the Allowable Amount for Non-
Preferred Providers for:

ROBIN G. LEITER-COHEN,

Respondent.

Case No. 2011-0326

OAH No. 2014020537

PROPOSED DECISION

Administrative Law Judge Diane Schneider, Office of Administrative Hearings, State of California, heard this matter on July 2, 2014, in Oakland, California.

Senior Staff Attorney Renee Salazar represented complainant Kathleen Donneson, Chief, Office of Health Plan Administration, California Public Employees' Retirement System.

There was no appearance by or on behalf of respondent Robin G. Leiter-Cohen.

The matter was submitted on July 2, 2014.

FACTUAL FINDINGS

1. There was no appearance by or on behalf of respondent Robin G. Leiter-Cohen. Upon proof of compliance with Government Code sections 11505 and 11509, the hearing proceeded as a default pursuant to Government Code section 11520.

2. The California Public Employees' Retirement System (CalPERS) is the agency charged with administering the Public Employees' Medical and Hospital Care Act (PEMHCA). (Gov. Code, § 22750 et seq.) The Act requires CalPERS to provide health benefits for state employees and their dependents.

3. At all times relevant to this proceeding, PERS Choice was a preferred provider plan offered by CalPERS to individuals eligible for health care benefits under PEMHCA. CalPERS contracted with Anthem Blue Cross to administer PERS Choice's medical claims.

4. At all relevant times, respondent was eligible for benefits under PEMHCA by reason of her employment with the City of Brisbane, and was enrolled in the PERS Choice health plan.

5. At all relevant times, PERS Choice provided respondent with an Evidence of Coverage booklet (EOC) pertaining to calendar years 2007 and 2008. The EOC's contained the terms and conditions of the plan, including provisions concerning benefits, claims, and payment of claims.

6. At all relevant times, PERS Choice's 2007 and 2008 EOC's did not provide for a higher Allowable Amount for Non-Preferred Providers than the predetermined amount in accordance with the PERS Choice's 2007 and 2008 EOC's.

7. On August 9, 2007, April 3, 2008, and July 29, 2008, respondent received services rendered by three Non-Preferred Providers: William Goodson, M.D., Keith Black, M.D. and James P. Anthony, M.D.

8. In August 2009 respondent filed a grievance with Anthem Blue Cross regarding the Allowable Amounts for the services rendered by the three Non-Preferred Providers. By letter dated August 31, 2009, Anthem Blue Cross informed respondent that the claims for the services provided by the three Non-Preferred Providers were processed in accordance with the provisions of the PERS Choice Plan.

9. By letter dated October 2, 2009, respondent appealed the determination by Anthem Blue Cross to CalPERS Health Benefits Division. By letter dated July 19, 2010, CalPERS informed respondent that it upheld Anthem Blue Cross's denial of the claim for additional reimbursements for services provided by Non-Preferred Providers.

10. Respondent filed a timely appeal, and this hearing followed.

11. No evidence was presented by respondent to support her claim that CalPERS failed to comply with the terms of the PERS Choice EOC's when it denied her request to increase the predetermined Allowable Amount for services provided by Non-Preferred Providers.

LEGAL CONCLUSIONS

1. As the appealing party, respondent has the burden to establish the facts essential to her claim. (Evid. Code, § 500.) Since no provision in the plan states otherwise, the standard of proof to be applied is the preponderance of the evidence. (Evid. Code, § 115.)

2. Respondent failed to appear at hearing and failed to present evidence in support of her claim. Accordingly, her appeal is denied.

ORDER

Respondent's appeal is denied.

DATED: 7/29/14



DIANE SCHNEIDER
Administrative Law Judge
Office of Administrative Hearings